

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

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11 In Re:) 'Cf xgtuct{ 'P q034/283: 7/v0 t
12 Darrell G. Ruse and Christy A. Ruse,) Case No. 09-64664-tmr13
13) CO GP F GF 'COMPLAINT FOR
14) "VIOLATION OF THE AUTOMATIC STAY
15 Darrell G. Ruse and Christy A. Ruse,)
16) Plaintiffs,)
17 v.)
18 Pushpin Holdings, LLC, a New York Limited)
19 Liability Company, and Lease Finance Group,)
Inc., a Minnesota corporation.)
20) Defendants.)
21)
22 Plaintiffs, by and through their attorney, Kent Anderson, allege the following:
23 1.
24 This adversary proceeding is one arising out of the debtors' bankruptcy case No. 09-
25 64664-tmr13, filed under Chapter 13 of Title 11 now pending in this Court. This Court has
26 jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §157, and 1334, and 11 U.S.C.
27 **Page 1 – Amended Complaint for Violation of the Automatic Stay**

1 §523. The action for violating the automatic stay is a core proceeding under 28 U.S.C.
2 §157(b)(2).

3 2.

4 This is an action for damages brought by Plaintiffs Darrell G. Ruse and Christy A. Ruse
5 against Defendants, Pushpin Holdings, LLC and Lease Finance Group, Inc., for violation of the
6 automatic stay entered pursuant to 11 U.S.C. §362 in Plaintiffs' bankruptcy proceeding.

7 3.

8 Plaintiffs filed for Chapter 13 bankruptcy protection on August 28, 2009. Lease Finance
9 Group, Inc., was listed in Plaintiffs' Schedule F, through their designated collection agent, and in
10 the mailing matrix submitted to the court on August 28, 2009.

11 4.

12 Lease Finance Group, Inc. was notified and had knowledge of the filing by Plaintiffs of
13 the above bankruptcy proceeding in August, 2009.

14 5.

15 Defendant Lease Finance Group, Inc., transferred all right, title and interest in the
16 commercial lease agreement and personal guarantees associated therewith to Pushpin Holdings,
17 LLC, as set forth in the demand letter sent to Plaintiff Darrell Ruse dated December 12, 2011,
18 and attached hereto as Exhibit "1".

19 6.

20 On or about December 12, 2011, Defendant Pushpin Holdings, LLC, sent a letter (see
21 Exhibit "1") demanding payment of a prepetition debt to Plaintiff Darrell Ruse. The letter was
22 received on or about December 19, 2011.

23 7.

24 Debtors' attorney's office sent a letter to Pushpin Holdings, LLC, on December 20, 2011,
25 advising of the current Chapter 13 case status, and that their collection attempts were in direct
26 violation of the automatic stay. A copy of that letter is attached hereto as Exhibit "2".

27 **Page 2 – Amended Complaint for Violation of the Automatic Stay**

1 8.

2 Despite having been specifically notified by counsel that there actions were in violation
3 of the automatic stay, Defendant Pushpin Holdings, LLC, sent a “Final Demand” to Plaintiff
4 Darrell Ruse dated October 17, 2012, demanding payment of the alleged balance due, default
5 interest, court costs and attorney fees unless payment in the amount of \$1,401.40 was received
6 within ten days. Further, the Final Demand indicated the “delinquency” had been reported to the
7 credit bureaus as a charge off or collection account. A copy of Defendant’s Final Demand is
8 attached hereto as “Exhibit 3”.

9 First Claim for Relief (against Lease Finance Group, Inc.)

10 (Willful Violation of Automatic Stay)

11 9.

12 Plaintiffs reallege paragraphs 3 through 8 above.

13 10.

14 Defendant Lease Finance Group, Inc.’s attempt to collect a debt by engaging as its
15 collection agent Pushpin Holdings, LLC with knowledge of the bankruptcy proceeding is a
16 willful violation of the automatic stay, 11 U.S.C. §362(h).

17 11.

18 Defendant Lease Finance Group, Inc.’s action in violation of the Automatic Stay has
19 caused Plaintiffs damages in the form of emotional distress, lost work time, and attorney fees.

20 Second Claim for Relief (against Pushpin Holdings, LLC)

21 (Willful Violation of Automatic Stay)

22 12.

23 Plaintiffs reallege paragraphs 3 through 8 above.

24 // /

25 // /

26 // /

27 **Page 3 – Amended Complaint for Violation of the Automatic Stay**

KENT ANDERSON LAW OFFICE
888 West Park Street
Eugene, Oregon 97401
(541) 683-5100

13.

2 The attempt by Defendant Pushpin Holdings, LLC to collect a debt by sending Plaintiffs
3 a collection letter on or about December 12, 2011, when Defendant had knowledge of the
4 bankruptcy proceeding is a willful violation of the automatic stay, 11 U.S.C. §362(h).

14.

6 Defendant Pushpin Holdings, LLC continued their willful disregard of the automatic stay
7 by sending Plaintiffs their Final Demand for payment on October 17, 2012, despite having been
8 notified previously of the active Chapter 13 case by counsel.

15.

10 Defendant Pushpin Holdings, LLC's violation of the Automatic Stay has caused Plaintiffs
11 damages in the form of emotional distress, lost work time, and attorney fees.

13 * * * * *

14 WHEREFORE, Plaintiffs Darrell Ruse and Christy Ruse respectfully request that
15 judgment be entered against Defendants Lease Finance Group, Inc., and Pushpin Holdings, LLC
16 for the following:

17

18 A. Declaratory judgment that Defendants' conduct violated the
19 Automatic Stay;

20 B. Actual damages;

21 C. Costs and reasonable attorney's fees pursuant to 11 U.S.C. §362 (h);

22 D. An Order enjoining Lease Equipment Group, Inc., and Pushpin
23 Holdings, LLC, from attempting to collect this debt;

24 E. Punitive Damages in the amount of \$5,000 from Defendant Lease
25 Equipment Group, Inc., for Defendant's willful violations;

26 // //

27 // //

27 **Page 4 – Amended Complaint for Violation of the Automatic Stay**

KENT ANDERSON LAW OFFICE
888 West Park Street
Eugene, Oregon 97401
(541) 683-5100

1 F. Punitive damages in the amount of \$5,000.00 from Defendant Pushpin
2 Holdings, LLC, for Defendant's willful violations; and,
3 G. For such other and further relief as the Court may deem just and proper.

4 DATED this 27th day of November, 2012.

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7 KENTANDERSON LAW OFFICE
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27 BY: /s/ Kent Anderson
Kent Anderson, OSB #78-125
Of Attorneys for Debtors/Plaintiffs

1 Penn Plaza
PO Box 6255
New York, NY 10119



PUSHPIN HOLDINGS LLC

December 12, 2011

DARRELL RUSE
815 ARROW LEAF AVE
HARRISBURG OR 97446-9668

Re: Equipment Lease Agreement

Lease Number: 1338112 (lease number with Lease Finance Group: 001-0669674-000)
Outstanding Balance: \$969.85

NOTICE OF ACQUISITION AND DEMAND FOR PAYMENT

Dear Darrell Ruse,

Please take notice that PUSHPIN HOLDINGS LLC (PUSHPIN) has recently acquired all of the rights, title and interest to certain commercial equipment finance lease agreements and personal guarantees thereupon originally held by LEASE FINANCE GROUP. Additionally, the above-referenced commercial equipment finance lease was included in the purchase.

Due to your continued delinquency and failure to pay the outstanding balance listed above, your account has been referred to my department to **initiate a civil action against you** as allowed under the personal guaranty in your lease agreement. Accordingly, demand is hereby made for payment in full.

Please be advised that **your delinquency has been reported to the credit bureaus as a chargeoff or collection account** and will be reflected on your credit report. Once your outstanding balance is paid in full, we will notify the credit bureaus that the outstanding balance has been paid.

Please send your payment in the amount of **\$969.85** to the address stated below **within ten (10) days from the date of this letter**. Please write your lease number on your check or money order. Payment can also be made via CREDIT CARD, DEBIT CARD, CHECK BY PHONE, WESTERN UNION or overnight delivery using our FEDERAL EXPRESS service. Please contact me to use any of the payment methods mentioned above.

I may be reached at (888) 271-4480. Please govern yourselves accordingly.

Sincerely yours,

Silvana Roberson
Account Manager
Legal Collections Department

1 Penn Plaza Box# 6255
New York, New York 10119

Monday- Friday
8:30am – 5:30pm EST.

51L-H-2

EXHIBIT: 1
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KENT ANDERSON LAW OFFICE

888 WEST PARK STREET
EUGENE, OREGON 97401

PHONE (541) 683-5100
FAX (541) 484-1754

December 20, 2011

Pushpin Holdings LLC
1 Penn Plaza
PO Box 6255
New York, NY 10119

RE: Darrell & Christy Ruse
Chapter 13 Case No. 09-64664-fra13
Our File No. 5368-1
Lease Finance Group Lease No. 001-0669674-000
Your Lease No. 1338112

To Whom It May Concern:

Please be advised that this office represents Darrell and Christy Ruse with regard to the above-referenced Chapter 13 bankruptcy proceeding filed August 28, 2009.

The Debtors are in receipt of your demand for payment dated December 12, 2011, on behalf of Lease Finance Group. As you may be aware, collection of this account is in direct violation of the automatic stay and further attempts will result in the filing of an adversary proceeding. If you have any questions, you should consult with your legal counsel.

Very truly yours,

Lynn Seitz,
Legal Assistant

LS:

cc: clients

1 Penn Plaza
PO Box 6255
New York, NY 10119



PUSHPIN HOLDINGS LLC

October 17, 2012

DARRELL RUSE
815 ARROW LEAF AVE
HARRISBURG OR 97446-9668

Lease Number: 1338112 (lease number with Lease Finance Group: 001-0669674-000)

Re: Equipment Lease Agreement

Outstanding Balance: \$1,401.40

FINAL DEMAND

Dear Darrell Ruse

You have failed to respond to our previous Demand For Payment. By copy of this letter, we are directing our attorneys to commence a civil action against you to recover all monies due under the lease agreement and applicable law, including default interest, courts cost and attorney's fees as may be appropriate, unless you promptly pay the outstanding balance of \$1,401.40 within ten (10) days from the date of this letter.

Please be advised that your delinquency has been reported to the credit bureaus as a chargeoff or collection account by LEASE FINANCE GROUP and is reflected on your credit report. Once your outstanding balance is paid in full, we will notify the credit bureaus that the outstanding balance has been paid.

Please send your payment in the amount of \$1,401.40 to the address stated below **within ten (10) days from the date of this letter**. Please write your lease number on your check or money order. Payment can also be made via CREDIT CARD, DEBIT CARD, CHECK BY PHONE, WESTERN UNION or overnight delivery using our FEDERAL EXPRESS service. Please contact me to use any of the payment methods mentioned above.

I may be reached at (888) 271-4480.

Please govern yourselves accordingly.

Sincerely yours,

Silvana Roberson
Account Manager
Legal Collections Department

EXHIBIT: 3
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